



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

OFFICE OF  
ENVIRONMENTAL  
CLEANUP

**NOV 07 2012**

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Elizabeth Parrott Stultz  
Regional Manager - Trust Real Estate  
BNY Mellon N.A.  
RE: Trust for Giuseppe and Assunta Desimone  
1201 3rd Avenue, Suite 5010  
Seattle, Washington 98101

Re: General Notice of Potential Liability Pursuant to Section 107(a) for the Lower Duwamish Waterway Superfund Site, Seattle, Washington

Dear Representative of BNY Mellon N.A. – Trust for Giuseppe and Assunta Desimone:

The U.S. Environmental Protection Agency has reviewed BNY Mellon N.A. – Trust for Giuseppe and Assunta Desimone's responses to the 104(e) Information Request, which was sent in connection with the Lower Duwamish Waterway Superfund Site located in Seattle, Washington, and received on September 3, 2009 and July 18, 2011. Based on BNY Mellon N.A. – Trust for Giuseppe and Assunta Desimone's responses and other available information, the EPA has determined that BNY Mellon N.A. – Trust for Giuseppe and Assunta Desimone may be responsible under the Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as the "Superfund" law, for the cleanup of the Site or the costs the EPA has incurred in cleanup of the Site.

**EXPLANATION OF POTENTIAL LIABILITY**

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), a Potentially Responsible Party or parties may be required to perform cleanup actions to protect the public health, welfare or the environment. The EPA has evaluated information in connection with its investigation of the Site and believes that BNY Mellon N.A. – Trust for Giuseppe and Assunta Desimone may be a PRP with respect to this Superfund Site. PRPs under CERCLA include current and former owners or operators of the Site; as well as persons who arranged for treatment and/or disposal of any hazardous substances at the Site, and persons who accepted hazardous substances for transport and selected the Site to which the substances were delivered. Specifically, the EPA has reason to believe that hazardous substances have been or are being released from the facility(ies) located in Seattle, Washington, as identified in the 104(e) Information Request response.

In accordance with CERCLA, the EPA and other parties have already undertaken certain actions and incurred costs in responding to the release of hazardous substances at the Site. Below is a brief description of some of these response actions:

- A Preliminary Assessment and Site Investigation was conducted to gain a basic understanding of any risks posed to human health and/or the environment by releases or threatened releases from the Site;

- A Remedial Investigation was completed to identify the Site characteristics and to define the nature and extent of soil, air, surface water and groundwater contamination at the Site and the risks posed by the Site;
- A Feasibility Study was conducted to evaluate different cleanup options for the Site; and
- The EPA has drafted and is preparing to release for public comment a Proposed Remedial Action Plan that will address how the Site will be cleaned up.

#### RESOURCES AND INFORMATION FOR SMALL BUSINESSES

As you may be aware, on January 11, 2002, President Bush signed into law the Superfund Small Business Liability Relief and Brownfields Revitalization Act. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may obtain a copy of the law via the Internet at <http://www.epa.gov/swerops/bf/sblbra.htm> and review EPA guidance regarding these exemptions at <http://www.epa.gov/compliance/resources/policies/cleanup>.

The EPA has created a number of helpful resources to assist small businesses and has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at [www.epa.gov](http://www.epa.gov). In addition, the EPA Small Business Ombudsman may be contacted at [www.epa.gov/sbo](http://www.epa.gov/sbo). Finally, the EPA developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act, which is enclosed with this letter.

The public will have the opportunity to submit comments on the Proposed Remedial Action Plan during the public comment period. The Proposed Remedial Action Plan is scheduled to be released soon. If you have questions concerning this letter or the Superfund Site, please contact Aaron Lambert at (206) 553-5122. Any communication by any attorney on your behalf should be directed to Alexander Fidis, EPA Office of Regional Counsel, at (206) 553-4710.

Thank you for your cooperation in this matter.

Sincerely,



Shawn Blocker, Unit Manager  
Site Cleanup Unit #3  
Office of Environmental Cleanup

Enclosures: SBREFA Fact Sheet  
PRP Frequently Asked Questions  
Explanation of the PRP Process

cc: Dan Cargill, Ecology/NWRO